

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE)	
INTEL CORP. MICROPROCESSOR)	
ANTITRUST LITIGATION)	MDL Docket No. 05-1717-JJF
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ADVANCED MICRO DEVICES, INC., a)	
Delaware corporation, and AMD)	
INTERNATIONAL SALES & SERVICE LTD,)	
a Delaware corporation,,)	
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Plaintiffs,)	
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v.)	Civil Action No. 05-441-JJF
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INTEL CORPORATION, a Delaware)	
corporation, and INTEL KABUSHIKI KAISHA,)	
a Japanese corporation,)	
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Defendants.)	
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PHIL PAUL, on behalf of himself)	
and all others similarly situated,)	
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Plaintiffs,)	
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v.)	Civil Action No. 05-485-JJF
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INTEL CORPORATION,)	CONSOLIDATED ACTION
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Defendant.)	

**RESPONSE OF AMD AND CLASS PLAINTIFFS TO UNOPPOSED MOTION OF
DEFENDANTS INTEL CORPORATION AND INTEL KUBUSHIKI KAISHA FOR
LEAVE TO SERVE A SUBPOENA *DUCES TECUM* ON ATI TECHNOLOGIES, INC.**

On August 10, 2006, Intel filed an “Unopposed Motion for Leave to Serve A Subpoena *duces tecum* on ATI Technologies.” [D.I. 199 (C.A. No. 05-441); 256 (C.A. No. 05-1717)]. AMD and the class plaintiffs respond, not to oppose the motion, but to explain the basis of their non-opposition.

Paragraph 5(g) of Case Management Order #1 [D.I. 123 (C.A. No. 05-441); 79 (C.A. No. 05-1717)] imposed a cut-off of June 15 (later extended to June 22 [D.I. 168 (C.A. No. 05-441); 144 (C.A. No. 05-1717)]) for service of certain third-party document subpoenas. Intel assumes that its ATI subpoena falls within the Paragraph 5(g) definition, and therefore seeks to be excused from its operation.

But Paragraph 5(g) only applies to “subpoenas *duces tecum* to corporate third parties requiring a comprehensive production of their relevant documents.” As sweeping as the ATI subpoena may be concerning the subjects it addresses, it is generally confined to documents generated in connection with the AMD-ATI merger, not all documents in ATI’s files that may be relevant to this lawsuit. Thus, in the view of AMD and the class plaintiffs, the ATI subpoena does not qualify as one seeking “a comprehensive production of [all of ATI’s] relevant documents” and therefore could have been served without leave.

AMD and class plaintiffs do not oppose the ATI subpoena, not because they view all the discovery sought as appropriate, but because of the inapplicability of Paragraph 5(g). Like Intel, they too expect from time-to-time to serve additional corporate third-party subpoenas seeking targeted document discovery concerning specific issues that may arise during the course of the litigation (as opposed to broad-based discovery requiring the third party to make a comprehensive production of all potentially relevant documents). Unless the Court instructs otherwise, they do not intend to seek leave in these situations.



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Dated: August 11, 2006

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2006, I electronically filed the foregoing document with the Clerk of Court using CM/ECF and have sent by Hand Delivery to the following:

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